
What happens if no agreement is reached?

Mediation does not promise to resolve all disputes, but it does provide a forum for sincere and meaningful discussion on the issues. If no agreement is reached, then only that fact is made part of the docket file. Thus, neither of the parties is prejudiced in later hearings.

What happens if an agreement is reached?

If an agreement is reached, the mediator will reduce the agreement to writing which is then signed by the parties. Thereafter, the agreement will be forwarded to an administrative law judge (ALJ) for approval. Upon approval by the ALJ, the agreement will have the same force and effect as an agreed order or award.

How do I request mediation?

Mediation can be requested by letter or phone; simply contact the Division of Workers Compensation.

What does mediation cost?

Professional mediators charge an hourly fee that at times can be in excess of \$100, depending on the complexity of the dispute. **The Division of Workers Compensation promotes and encourages mediation in workers compensation cases by offering professional mediation free of charge.** With nothing to lose and much to gain, mediation is a cost effective way of resolving disputes within the workers compensation system.

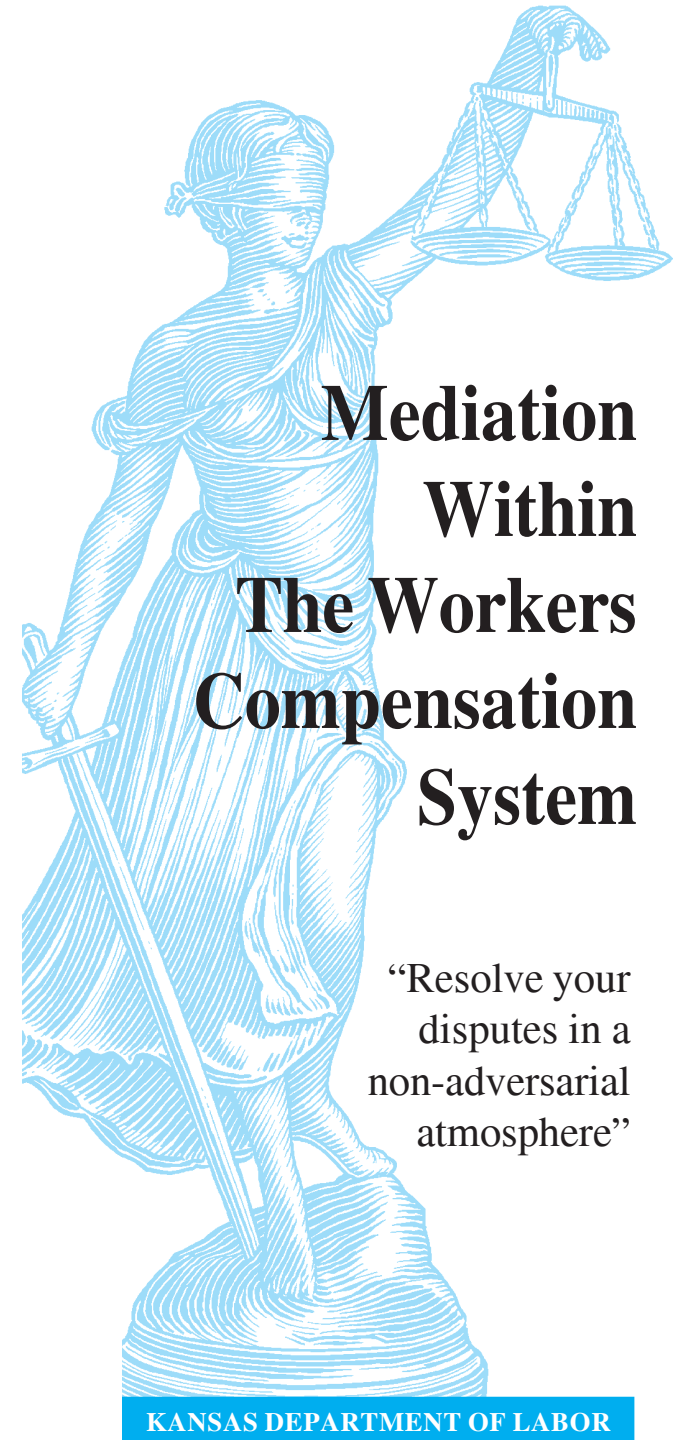
For additional information or to schedule a mediation conference, please write or call:

MEDIATION SECTION
DIVISION OF WORKERS COMPENSATION
KANSAS DEPARTMENT OF LABOR
800 SW JACKSON STE 600
TOPEKA KS 66612-1227

PHONE: 785-296-0848 or 1-800-332-0353



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MEDIATION WITHIN THE WORKERS COMPENSATION SYSTEM

Mediation within the workers compensation system was legislatively created in 1996 (K.S.A. 44-5,117) and can be utilized at any point during the workers compensation process. Initially, the mediation process required that all parties participate in person. Due to the burden created by this requirement, K.S.A. 44-5,117 was amended in 1998 to allow mediation by video conferencing. Mediation is not mandatory or a prerequisite to a hearing. In fact, mediation can be utilized at any point during the workers compensation process. Furthermore, the issues that can be mediated are not restricted to medical or temporary total disability benefits.

What is mediation?

Mediation is a means of resolving disputes in an informal and non-adversarial atmosphere. The parties to a dispute use a neutral third party to facilitate the discussion. The mediator has no decision making authority or

interest in the outcome of the dispute. The mediator's job is to assist the parties in identifying the issues in dispute and establishing common goals. The key to mediation is allowing the parties to work through their dispute and create their own agreements (self-determination).

Who are the mediators?

The mediators are employees of the Division of Workers Compensation, who have received special training in the process of mediation. The mediators used by the Division of Workers Compensation meet or exceed the requirements established by K.S.A. 5-501 and amendments thereto, and any relevant rules of the Kansas Supreme Court as authorized pursuant to K.S.A. 5-510, and amendments thereto. Mediators receive the training in conflict resolution techniques, neutrality, agreement writing, ethics, role playing, communication skills, evaluation of cases and the laws governing mediation.

How does mediation work?

Mediation works only if the parties are willing to participate and discuss the

issues in good faith. Without good faith intentions by the parties, success through the mediation process is limited. The mediation conference begins with the parties in a joint session. The parties are introduced and the rules of mediation are explained. (Workers Compensation Mediation Conferences are conducted pursuant to the Dispute Resolution Act, K.S.A. 5-501, and amendments thereto). Full participation by all of the parties is strongly encouraged by the mediator. The mediator selects one of the parties to begin the mediation conference. The party is given the opportunity to speak without any interruptions. Thereafter, the other party is shown the same courtesy. Upon completion of this initial phase, the parties, with the assistance of the mediator, will begin identifying the issues and exploring all possible options in resolving their dispute. At times, the parties may be separated by the mediator or by the request of either party in order to discuss their respective case. This technique is known as caucusing. Although caucusing is not used in every mediation conference, it is available to all the parties. The purpose of caucusing is to gather or share additional information which the party may be reluctant to express in front of the other party, or perhaps to discuss possible resolution options.